



**IDEM**  
**Office of Air Management**  
**Rules Guidance**

**March 1998**

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING STATE MINOR  
NEW SOURCE REVIEW PERMITTING PROGRAM**

**#96-1(APCB)**

**FACT SHEET**

**Overview**

This rulemaking proposes to amend 326 IAC 2 (Article 2) to reorganize and revise the state minor New Source Review (NSR) permitting regulations. This rulemaking also proposes to revise 326 IAC 2, including 326 IAC 2-7 and 326 IAC 2-8 to include provisions that would allow for better integration between the construction and operating permit programs and more streamlined and straightforward permit revision procedures for existing sources making modifications or changes.

**Citations Affected**

**Adds:**

326 IAC 1-2-23.5

326 IAC 2-1.1                      326 IAC 2-8-11.1

326 IAC 2-4.1                      326 IAC 2-12

326 IAC 2-5.1                      326 IAC 2-13

326 IAC 2-6.1                      326 IAC 2-14

**Amends:**

326 IAC 1-2-21                      326 IAC 2-7-11

326 IAC 1-2-42                      326 IAC 2-7-19

326 IAC 1-2-65                      326 IAC 2-7-20

326 IAC 1-2-73                      326 IAC 2-7-24

326 IAC 1-6-1                      326 IAC 2-8-3

326 IAC 2-2-1                      326 IAC 2-8-4

326 IAC 2-2-2                      326 IAC 2-8-7

326 IAC 2-2-5                      326 IAC 2-8-10

326 IAC 2-3-1                      326 IAC 2-8-15

326 IAC 2-3-3                      326 IAC 2-8-16

326 IAC 2-7-1                      326 IAC 2-9-1

326 IAC 2-7-2

326 IAC 2-7-4

326 IAC 2-7-5

326 IAC 2-7-8

326 IAC 2-7-9

326 IAC 4-1-1

**Repeals:**

326 IAC 2-1

326 IAC 2-4

326 IAC 2-9-6

326 IAC 2-10-1

326 IAC 2-11-1

326 IAC 3-1.1-1

326 IAC 6-1-11.1

326 IAC 2-5

326 IAC 2-8-11

**Affected Persons**

All sources currently required to obtain registrations, construction permits, and operating permits. Any existing source currently required to apply for and receive permit approvals for certain modifications.

**Potential Cost**

Low because the changes seek to reduce complexity of permitting and permit revision requirements and exclude certain types of new sources and modifications from current permit requirements.

**Description**

In February 1996, IDEM published a first notice of rulemaking announcing the agency's intention to amend the state minor new source review permitting regulations. The agency explained that the purpose of the rulemaking is to identify and eliminate state permitting requirements where an analogous

review is required under new operating permit programs. In addition, the agency would use the rulemaking to identify and consider eliminating state permitting requirements where no discernible environmental benefit derives from the permitting process.

In August 1996, IDEM published a second notice of rulemaking that included draft rule language. The draft rule language addressed proposed changes to the federal new source review regulations, legislative changes passed by the 1996 General Assembly that affected permitting of certain categories of modifications, and a streamlined process for review of "pollution control projects". IDEM received many comments concerning the draft rule language and also concerning the timing of some of the proposed changes. Due to the number and content of comments and changes that have occurred since the August 1, 1996, Second Notice of Comment Period, the agency republished a second notice of rulemaking.

This rulemaking maintains the agency's previous intentions of streamlining the permit process and more efficient integration between the construction and operation permit requirements. In order to accomplish these goals, the agency has prepared draft rule language that would restructure the permit requirements under 326 IAC 2-1, and has replaced 326 IAC 2-1 with new rules. The new rules are 326 IAC 2-1.1, General Provisions; 326 IAC 2-4.1, New source toxics control; 326 IAC 2-5.1, Construction of new sources; 326 IAC 2-6.1, Minor source operating permits; 326 IAC 2-12, General permits; 326 IAC 2-13, Interim operating permit revisions; 326 IAC 2-14, Portable Sources. The new rules provide a structure that allows a source to determine the appropriate permitting or approval requirements based on whether the source is an existing source or new source, whether the source is registered or permitted, and what type of changes or modifications the source is proposing. The new rules provide a set of "general provisions" that are applicable throughout the article and assist with consistency across the permitting programs.

The rule language for Part 70 and FESOP sources includes revisions that would allow IDEM to establish permit terms and conditions for emission caps and advanced approvals. The new rules still include the streamlined permit process under House Enrolled Act 1265 (HEA 1265) passed in 1996 and the pollution control project provisions identified in previous draft rule language or comments. While the draft rule contains many new rule sections and provisions, the draft rule also incorporates current rule language without any changes or with minor changes. For example, the new rule, 326 IAC 2-4.1, incorporates current rule language for new source toxic control under 326 IAC 2-1-3.4 and the fee section, 326 IAC 2-1.1-7, incorporates the current fee section under 326 IAC 2-1-7.1.

Additionally, IDEM has revised the administrative amendment and permit modification sections under the Federally Enforceable State Operating Permit (FESOP) rule, 326 IAC 2-8, to incorporate some of the same provisions for modification of minor sources. This was done in order to provide the same degree of integration and consistency between the various permit programs. IDEM is interested in ways in which the integration and consistency provided in the new rules can be applied to the Part 70 permit program under 326 IAC 2-7. The U.S. EPA has proposed revisions to the Part 70 program on several occasions (August 29, 1994; August 31, 1995; and May 14, 1997), but has not promulgated final rules for the revisions. The draft rule provides a new section under the Part 70 rules, 326 IAC 2-7-10.5, Source modifications that is intended to provide a mechanism for modifications at Part 70 sources. IDEM is continuing to work with interested parties on alternatives to incorporate the provisions of the new rules into the Part 70 permit program.

IDEM has initiated a series of meetings with the regulated community and other interested parties. The purpose of the meetings is to provide a forum for various parties to discuss and resolve issues and provide new information and rule language. The agency has a statutory

requirement to have the rules implementing HEA 1265 adopted by December 1, 1998. IDEM believes that the meetings will assist in formulating rule language that has a broad consensus and will enable IDEM to meet the statutory deadline.

#### **Consideration of Factors Outlined in Indiana Code 13-14-8-4**

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account:

- 1) all existing physical conditions and the character of the area affected;
- 2) past, present, and probably future uses of the area, including the character of the uses of surrounding areas
- 3) zoning classifications;
- 4) the nature of the existing air quality or existing water quality as the case may be;
- 5) technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality; and
- 6) economic reasonableness of measuring or reducing any particular type of pollution.

The board shall also take into account the right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

#### **Consistency with Federal Requirements**

The new and amended rules are consistent with federal rules and guidance.

#### **IDEM Contact**

Additional information regarding this rule making action can be obtained from Roger Letterman, Rules Development Section, Office of Air Management, (317) 232-8342 or (800) 451-6027, ext. 2-8342 (in Indiana).